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February 20, 2012

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: **Ex Parte Presentation - Docket No. 02-6**  
**Eligible Services**

Dear Ms. Dortch:

On Friday, February 17, 2012 the undersigned met with Caro Voth and Alec MacDonell, both of the Commission's Wireline Competition Bureau. The purpose of the meeting was to discuss potential clarifications to E-rate eligible services. The PowerPoint presentation used during this discussion is attached.

Sincerely yours,

Philip B. Gieseler

cc: Cara Voth  
Alec MacDonell

Attachment: "Focus on E-rate Eligibility"





# Focus on E-rate Eligibility

Presentation by Phil Gieseler to FCC/WCB

February 17, 2012





# Focus on E-rate Eligibility


- Discount Determinations
- USAC Performance Standards
- • Eligibility ←
- Black Hole
- SP Undue Influence





# Focus on E-rate Eligibility

- Long Term / Strategic  
New eligibility paradigm 

- Short Term / Immediate  
Specific updates 



# What is the current paradigm?

- Transition from '97 Order to today
- Currently:
  - “Any service that meets the definition of ‘telecommunications service’” is eligible
  - “For other services, funding is limited to those products and services expressed as eligible in the ESL”

2012 ESL, page 1





# Challenges for Maintaining Clarity

- Potential inconsistencies
- Constantly changing technology
- Words with multiple definitions
- Words that are virtual synonyms





# Clear and Simple is Better

[T]he number of regulations, and their scope, are not the only factors that can affect economic growth. Consistency and complexity matter as well; business does best when the rules of the economic game are clear and predictable.

Washington Post editorial, September 24, 2011





# Eligibility Documents

- Eligible Services List
- USAC website documents
- FCC rules and Orders

Constituents particularly rely on the first two.







# Some Current Complexities

exist in these areas

- Interconnected Voice over IP
- Dark and Lit Fiber
- Cost Allocation
- Internet Access
- Data Protection Systems
- SMR (Specialized Mobile Radio)
- Network Management & Monitoring





# Interconnected VoIP

- A “voice switch” is considered a “gateway” by USAC
- A “gateway” is considered a “basic terminating component” by USAC

Result: An on-premise voice switch can be part of a Priority 1 service.

Suggestion: FCC confirmation would provide needed assurance.





## Lit and Unlit (Dark) Fiber

	<u>Lit</u>	<u>Unlit</u>
Off-prem construction costs eligible?	Yes	No
Modulating electronics eligible?	Yes	No

Q: What is the difference between lit and unlit?

A: An inexpensive GBIC (transceiver)

Suggestion: A consistent approach would aid constituent understanding



# Cost Allocation

Current confusion about scope of footnote 25 in Clarification Order (DA 10-2355)

“[M]any cell phones are free or available to the general public at a discounted price with the purchase of a two-year contract. Schools and libraries are free to take advantage of these deals, without cost allocation...”

Suggestion: Reconcile this new approach with rules for cost allocation and ancillary use.



# Cost Allocation Needed?

- A service provider always includes free surge protectors in its bids in order to protect the routers, switches, and hubs that are a part of the bid.
- All purchasers of a company's router are given a free Intrusion Protection System if they purchase prior to a certain date.
- A service provider wants to provide a Virtual Private Network capability as a standard component part of its Internet Access service, at no increase in cost.
- A service provider provides free parent and/or teacher accounts for all e-mail services in conjunction with any applicant's decision to sign up all students for paid services.

Suggestion: Provide sufficient guidance to answer these example questions.



# Cost Allocation Percentages

- How do constituents confirm a Service Provider's cost allocation?
  - Might be able to get an answer from Client Services Bureau
  - Use Eligible Products Database (but Internal Connection only)

Suggestion: Allow Priority 1 cost allocations to be provided in the Eligible Products Database



## Internet Access-- 3 issues

- Definition of Internet Access
- Limited to basic conduit access?
- Internet2





# Internet Access-- Definition

- Current definition is:
  - Out-of-date
  - Virtually indicipherable
- This complicates consideration of policy issues

Suggestion: Seek a revised definition that is clear and accurate





## Internet Access-- basic conduit access

- “...also may be available for selected services that are an integral component part of an Internet Access services, and other services that the Commission has designated as eligible for discount.” 2012 ESL p. 8
- Ineligible: “Internet access [features] that go beyond basic conduit access to the Internet.” 2012 ESL p. 10

Suggestion: Fix this discrepancy.



## Internet Access-- Internet2

- 2012 ESL, p. 1: “[F]unding is imited to those products and services expressed as eligible in the ESL.”
- Service Provider Conference Call, 11-9-11: “Basic conduit access to the Internet, as well as Internet2, is eligible for discounts in the Internet Access category of service.”

Suggestion: Written confirmation of USAC’s interpretation would be useful (or seek public comment).



# Data Protection

## Eligible:

- Firewall (basic)
- Proxy Server
- VPN
- Tape Backup
- Battery Backup

## Not Eligible:

- Lightning Arrestor
- Surge Protector
- Intrusion Protection
- Anti-virus software

Suggestion: Revisiting a more consistent approach at some point would be useful



# Specialized Mobile Radio (SMR)

- FCC licenses some but not all SMR services as telecommunications
- SMR service can sometimes be substantially less expensive than cell phones

Suggestion: Consider ESL listing of SMR as an eligible telecommunications service



## Basic Maintenance-- 2 Suggestions

Suggestion: Include details in ESL about what can and can't be funded on a fixed price basis

Suggestion: Seek comment on “network management and 24-hour network monitoring”

- Currently not eligible
- Now the most cost effective method for maintaining a network



# Conclusion

- Constituents rely on the specific words
- USAC website: full and accurate information about FCC rules and policies
- Constituents deserve:
  - Clear and complete information
  - Sunshine
  - Simplicity



# Focus on E-rate Eligibility

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